

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TERESA R. ROBERTS,

Plaintiff,

v.

**CIVIL ACTION NO. 2:04cv 61
(Maxwell)**

**JO ANNE B. BARNHART,
COMMISSIONER, SOCIAL
SECURITY ADMINISTRATION,**

Defendant.

ORDER

It will be recalled that on September 5, 2006, Plaintiff filed a Motion for Attorney Fees under the Equal Access to Justice Act. On September 13, 2006, the Defendant filed a Brief in Opposition to the Motion for Attorney Fees. On September 21, 2006, the Court referred the matter to United States Magistrate Judge John S. Kaull, pursuant to 28 U.S.C. § 636(b)(1)(B), Rule 72(b) of the Federal Rules of Civil Procedure and Local Rule 4.01(d). On November 17, 2006, Magistrate Judge Kaull filed his Report and Recommendation, wherein he recommended denying the Plaintiff's Motion for Attorney Fees. The parties were directed in Magistrate Judge Kaull's Report and Recommendation to file with the Clerk of Court any written objections within ten (10) days after being served with a copy. No objections have been filed. Accordingly, the Court will review the Magistrate's Report and Recommendation for clear error.¹

¹The failure of a party to object to a Report and Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

Upon examination of the Report and Recommendation filed by the Magistrate Judge, it appears to the Court that the issues raised in the Motion for Attorney Fees and the Brief filed in opposition thereto were thoroughly considered by Magistrate Judge Kaull. The Court, reviewing all matters now before it for clear error, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this matter. Therefore, it is hereby

ORDERED that Magistrate Judge Kaull's Report and Recommendation of November 17, 2006 shall be, and the same hereby is, accepted in whole. Accordingly, for the reasons set forth in the Magistrate Judge's Report and Recommendation, it is

ORDERED that the Plaintiff's Motion for Attorney Fees under the Equal Access to Justice Act shall be, and the same hereby is **DENIED**.

The Clerk of Court is directed to send a copy of this Order to all counsel of record.

ENTER: June 4 , 2008

 /s/ Robert E. Maxwell
United States District Judge